

U.S. Patent Application Serial No. **10/509,673**
Amendment filed August 27, 2009
Reply to OA dated June 30, 2009

REMARKS

Claims 1, 3 and 5-25 are pending in this application. Claims 1 and 3 are amended herein. Upon entry of this amendment, claims 1, 3 and 5-25 will be pending. Entry of this amendment and reconsideration of the rejections are respectfully requested.

No new matter has been introduced by this Amendment. Support for the amendments to the claims is discussed below.

Claims 1, 3, 5, 6, 9-12, 14-20, and 22-25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Barney (US 5,462,526) in view of Larkin (US 4,602,910). (Office action paragraph no. 2)

Claims 7 and 8 are rejected under 35 U.S.C. §103(a) as being unpatentable over Barney in view of Larkin, and further in view of Inoue (US 5,423,421). (Office action paragraph no. 7)

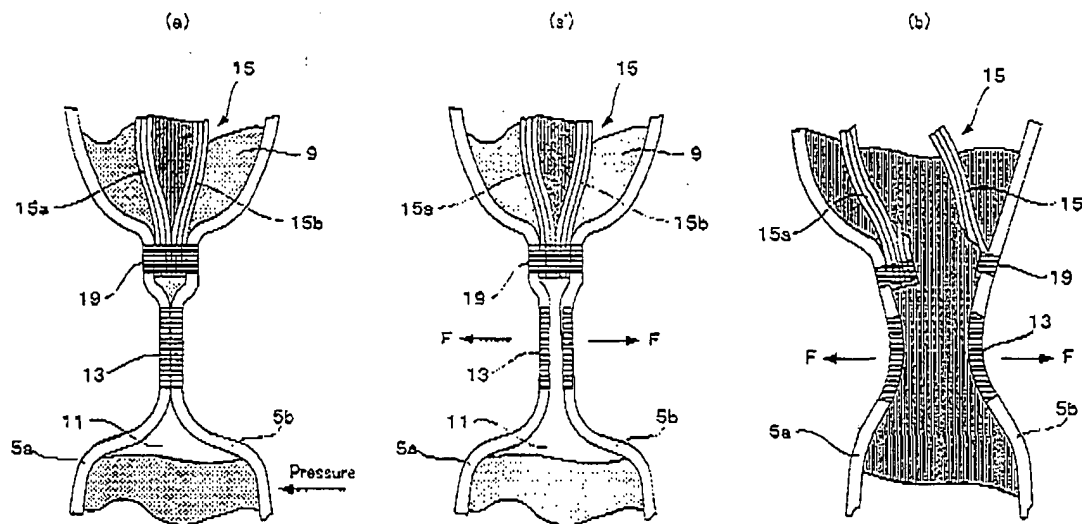
Claims 13 and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Barney in view of Larkin, and further in view of Becker (US 6,319,243). (Office action paragraph no. 8)

Reconsideration of these rejections is respectfully requested in view of the amendments to claims 1 and 3.

Claim 1 has been amended to clarify that: “the opposing outer surfaces are each bonded to the opposing inner wall surfaces of the chambers ~~container body~~” Claim 1 has also been amended to add

the recitation: “the small container is opened in accordance with the separation of the opposing inner wall surfaces of the container body.”

In claim 1, a small chamber is opened by the use of the force that separates the partition seal portion. In order to make the mechanism easier to understand, Applicant reproduces Fig. 2 of the present application, below, with additional explanatory figure (a'), which shows the intermediate condition of Fig. 2 in the present Specification.



As illustrated in figure (a'), when pressure is applied to the main body of the container, the partition seal opens first. The opening of the partition seal causes the small container to open due to the separating force of the inner surfaces of the container. Accordingly, the partitioning seal portion and the small container are almost simultaneously opened.

U.S. Patent Application Serial No. **10/509,673**
Amendment filed August 27, 2009
Reply to OA dated June 30, 2009

In claim 3, the recitation regarding the bonded portion of the small container is amended as follows:
“the bonded portion comprises opposing outer surfaces of the sheet material, wherein the opposing outer surfaces are each bonded to the inner wall surfaces of the container body where the partitioning seal portion is formed such that the small container is positioned partly inserted into the partitioning seal portion.”
Support for this amendment may be found at page 12, lines 7-8, of the specification (paragraph [0042], as published). In addition, claim 3 has been amended to recite “the small container is opened in accordance with the separation of the opposing inner wall surfaces of the container body.”

The location of the small container in claim 3 is different from that of claim 1. In claim 3 is that the small container is bonded to the inner wall surfaces of the container body where the partitioning seal portion is formed, such that the small container is positioned partly inserted into the partitioning seal portion. That is, the small container is disposed within a part of the partitioning seal portion, and not the entire partitioning seal portion. This structure performs similarly to claim 1, that is, the small container and the partitioning seal portion open almost simultaneously.

Review of the cited references

(1) Larkin (US 4,602,910)

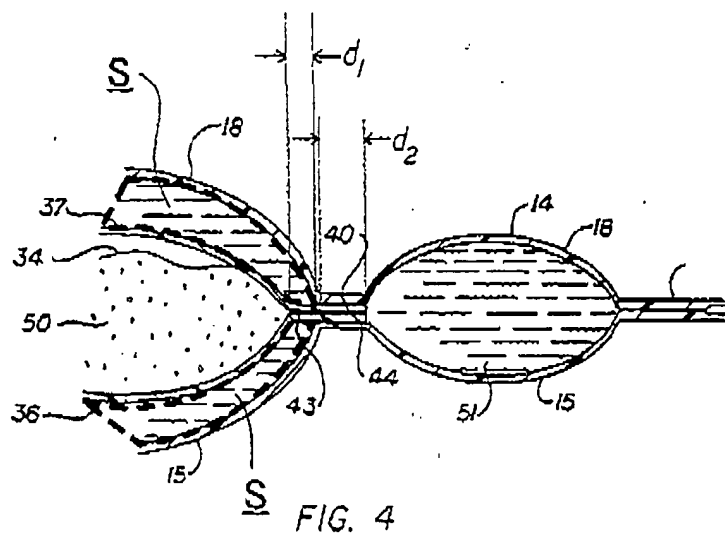
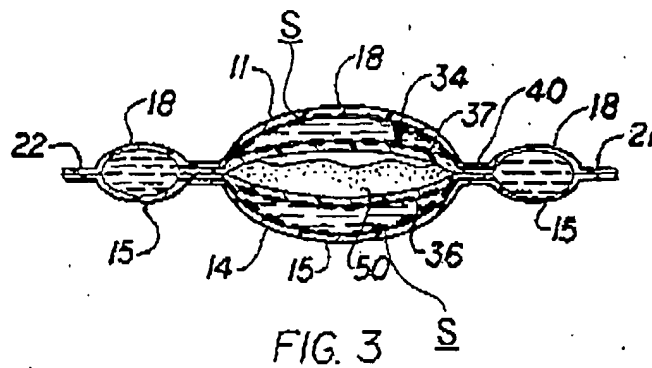
Larkin merely discloses a medical container having a chamber (primary container 14) surrounding a small container (second container 34).

In particular, Applicants note the following point. According to Figs. 3 and 4 of Larkin, reproduced below for convenience, the Examiner may have considered that "regions S" formed between the secondary container and front and back walls 15 and 18 of the primary container store a medicament. However, regions S do **not** store a medicament and are left empty. Applicants explain this as follows.

According to the description of Larkin, column 3, under the title of "Fabrication," the fabrication is conducted by (i) preparing a second container 34 enclosing medicaments, (ii) sealing the second container 34 to a primary container 16, and (iii) filling the primary container 16 with diluent. Thus, the fabrication does **not** disclose that the region S stores a medicament.

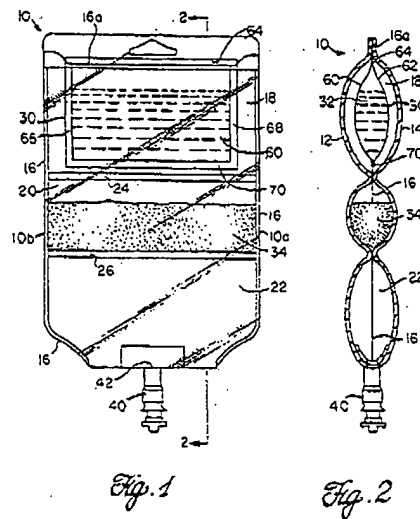
An alternative fabrication might be possible: (i) preparing a second container 34 enclosing medicaments, (ii) disposing a medicament between the wall 18 (15) of the primary container 10 and the wall 37 (36) of the second container 34, (iii) sealing the second container 34 to a primary container 10 such that the medicament is positioned in region S, and (iv) filling the primary container 10 with diluent. However, in this fabrication, keeping the medicament on the sheet when sealing the small container is very difficult, and the heat of sealing would affect the medicament. Thus, one of skill in the art would **not** apply this fabrication.

Therefore, the regions S do not store a medicament and is left empty, and the sealed area 40 serves not as a partitioning seal portion.



(2) Barney (US 5,462,526)

Barney discloses a peelable seal (partitioning seal portion 24) and a small container (sterile pouch 30). The sterile pouch 30 is sealed with a peelable seal 70 in such a manner that it opens in response to external force. When an external force is applied, the peelable seal 70 of sterile pouch 30 is opened first and then the peelable seal 24 (the partitioning seal portion) is peeled. Barney's Figs. 1 and 2 are reproduced below, for convenience.



Comparison of Claim 1 to the References

(i) Claim 1 differs from Larkin in the following points:

the partitioning seal portion of the present invention is formed by bonding opposing inner wall surfaces of the container body,

the bonding portion of the small container is bonded to the chambers in the vicinity of the partitioning seal portion, and

the small container is opened in accordance with the separation of the opposing inner wall surface of the container body.

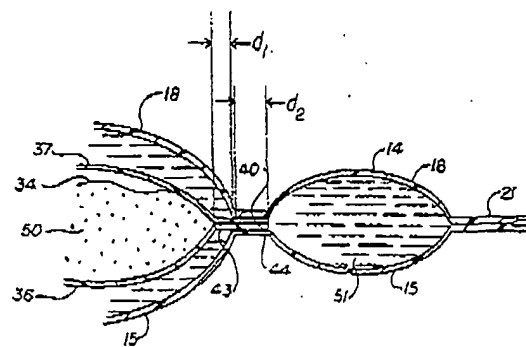


FIG. 4

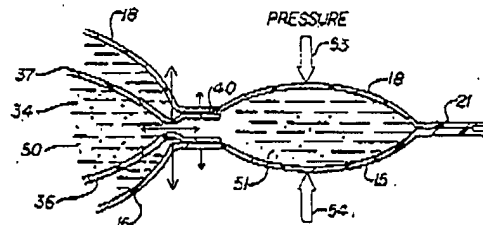


FIG. 5

The Examiner may be taking parting section 44 of Larkin as corresponding to the partitioning seal portion. However, the partitioning seal portion of the claimed invention is formed by bonding opposing inner wall surface of the container body while the parting section 44 of Larkin is formed by bonding the walls 36

and 37 of the second container, **not** by bonding the walls 15 and 18 of the primary container. Thus, the paring section 44 does **not** correspond to the partitioning seal portion of the claimed invention.

With respect to an opening mechanism of the small Ccontainer, Larkin only teaches that the small container is opened directly by increased internal pressure caused by an external force to the container body. In contrast, the increased internal pressure in the present invention indirectly exerts the small container, because the small container is opened in accordance with the separation of the opposing inner wall surface of the container "body.

(ii) The present invention differs from the Barney reference in that the bonding portion of the small container is bonded to the chambers in the vicinity of the partitioning seal portion. Barney teaches that the small container 60 is bonded to the top edge of the container body 10, that is, the bonding portion is NOT located "in the vicinity of the partitioning seal portion." Thus, the small container 60 and the partition seal portion 24 open separately (see Column 8, lines 2 to 10). In the present invention, the small container opens due to the separation of the inner surfaces of the container, that is, the small container and the partition seal open at the same time as explained above.

Conclusion

As explained above, in the present invention, the opening of the partition seal portion causes the small container to open due to the separating force of the inner surfaces of the container. Thus, the one of the features of the present invention is that the small container opens by utilizing the opening of the

U.S. Patent Application Serial No. **10/509,673**
Amendment filed August 27, 2009
Reply to OA dated June 30, 2009

partitioning seal portion. To perform this mechanism, the small container is disposed in the vicinity of the partitioning seal portion.

However, any references do not teach this mechanism and the structure. Thus, the claimed invention is not obvious from the references. Thus, claim 1 is not obvious over the cited references, taken separately or in combination.

Comparison of Claim 3 with the cited references

The claimed invention differs from Larkin in the following points:

the bonding portion of the small container is bonded to the partitioning seal portion “such that the small container is positioned partly inserted into the partitioning seal portion.”

the small container is opened in accordance with the separation of the opposing inner wall surfaces.

as explained in Claim 1, an opening mechanism of the small container is not disclosed by any References. In addition, the bonding portion of the small container (the sealed area 40 and parting section 44) is not bonded to the partitioning seal portion “such that the small container is positioned partly inserted into the partitioning seal portion.”

Conclusion

Claim 3 is not obvious over Larkin or Barney, taken separately or in combination.


U.S. Patent Application Serial No. **10/509,673**
Amendment filed August 27, 2009
Reply to OA dated June 30, 2009

Regarding dependent Claims 5 to 25

Each of claims 5 to 25 depends ultimately from claim 1 or from claim 3. Applicants have argued above that both claim 1 and claim 3 are not obvious over the cited references, and claims 5-25 are therefore also not obvious over these references.

If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the applicants' undersigned agent at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, the applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,
KRATZ, QUINTOS & HANSON, LLP

Daniel A. Geselowitz, Ph.D.
Agent for Applicants
Reg. No. 42,573

DAG/xl

Atty. Docket No. **040520**
Suite 400
1420 K Street, N.W.
Washington, D.C. 20005
(202) 659-2930



23850

PATENT & TRADEMARK OFFICE

Enclosures: Request for Continued Examination (RCE)
Petition for Extension of Time
Applicant Initiated Interview Request Form